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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,823	01/03/2002	Jean-Louis Pellegatta	Q65499	4464

7590 07/14/2004  
Sughrue Mion Zinn Macpeak & Seas  
2100 Pennsylvania Avenue NW Suite 800  
Washington, DC 20037-3213

EXAMINER
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CHIN, PAUL T

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/913,823

Applicant(s)

PELLEGATTA, JEAN-LOUIS

Examiner

PAUL T. CHIN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-19 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 11 is/are rejected.
- 7) ☒ Claim(s) 4-10 and 12-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Applicant's amendment filed April 5, 2004 and the arguments therewith have been fully considered and are persuasive in light of amended claims. Therefore, the rejection made (regarding claims 1-11) has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Yokobayashi (5,290,506). Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Yokobayashi (5,290,506). Claims 4-10 and 12-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims and claims 16-19 are allowed. A final office action follows as below.

#### ***Claim Objections***

2. Claim 11 is objected to because of the following informalities: it appears that the claimed word "neck" (claim 11, line 8) after "the inner" should be changed to -- core -- (line 7) because the "inner core" has "a lower transverse surface". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis for "the neck" (claim 11, line 6) "the preform" (line 6) or "the neck of the preform" (line 7). It is pointed out that the independent claims 1,16,17, and 19 recite the intended use for carrying "a preform having a body and a tubular neck" in the preamble, but claim 11 does not recite the above phrase in the preamble. The intended use of the claim 11 is only "for a plastic container."

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by **Yokobayashi (5,290,506)**.

**Yokobayashi (5,290,506)** discloses a carrying device for carrying a preform (10) in the oven or mold (40), the preform having a body (16) and a tubular neck (12), the carrying device comprising a gripping device (50) having gripping claws (54a, 54b) (Col 7, lines 1-14) which encloses an outer surface of the neck (12) to hold the preform, an inner core (102,104,106) (Fig. 11) which penetrates axially inside the neck of the preform, the inner core having a lower *substantially* transverse surface (Fig. 11), at least one outwardly and radially protruding member (110) extending from the inner core (see Fig. 11), which can be considered as a fin, to dissipate heat and to promote a heat exchange between the mutually contacted parts (18 and 110). It is pointed out that the meanings of the word "fin" are defined as "*a membranous appendage extending from the body of*

*a fish or other aquatic animal, used for propelling, steering, or balancing the body in the water; something resembling a fin in shape or function, as a. a fixed or movable airfoil used to stabilize an aircraft, a missile, or a projectile in flight. b. a projecting vane used for cooling, as on a radiator or an engine cylinder. c. See tail fin; or see flipper*”, according to *The American Heritage® Dictionary of the English Language, Third Edition*. Therefore, the outwardly and radially protruding member (110), that resembles a fin in shape or function as a fixed airfoil used to stabilize an aircraft, a missile, or a projectile in flight or a projecting vane used for cooling, can be considered as a fin. Moreover, Yokobayashi (5,290,506) shows the inner core (102,104,106) and the protruding member (110) wherein the distal end portion of the protruding member (110) contacts the bottom and side wall (18) (see Fig. 11) of the preform to regulate the temperature and to exchange heat between the mutually contacting parts (i.e. the protruding member and the bottom of the preform) (see from Col 3, lines 46, to Col 4, line 3) by inserting cooling medium (air or liquid nitrogen) into the inner core (102,104,106) and the protruding member (110) (see Col 12, lines 1-45). Therefore, it is pointed out that Yokobayashi’s device (5,290,506) is inherently capable of absorbing heat at least to some extent to cool down the preform at a lower temperature.

**Re claim 2**, Yokobayashi’s device (5,290,506) shows the diameter of the core (106) (see Fig. 11) being *substantially* less than the inside diameter of the neck (12) of the preform.

**Re claim 3**, Yokobayashi’s device (5,290,506) also substantially shows the fin (110) being in the form of a radiator. It is pointed out that the meanings of the word “radiator” are defined as “*a heating device consisting of a series of connected pipes, typically*

*inside an upright metal structure, through which steam or hot water is circulated so as to radiate heat into the surrounding space; a cooling device, as in automotive engines, through which water or other fluids circulate as a coolant; Physics. a body that emits radiation; a transmitting antenna"* according to *The American Heritage® Dictionary of the English Language, Third Edition*. The fin (110) of Yokobayashi's device (5,290,506) can be considered as in the form of a radiator or a cooling device through which water or other fluids circulate as a coolant or a body that emits radiation.

***Allowable Subject Matter***

7. Claims 4-10 and 12-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claim 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Claims 16-19 are allowed.

Yokobayashi's device (5,290,506) does not show a series of slots that are angularly distributed so as to delimit between the two successive slots and gripping claws to elastically deform to engage the tubular neck of the preform (claim 4), a circular spring that encircles the lower end of the claws (claim 7), an ejection means or fingers (claims 8, 17, and 19), the inner core having a lower transverse surface which forms a reflecting surface for reflecting heating energy provided by the oven (claims 11, 13, and 16), the lower transverse of the preform is substantially axially situated at the boundary between

the neck and the body of the preform (claims 12 and 17), a plurality of fins being separated by a groove (claim 14), the gripping device having radially extending slot portions to elastically deform to engage the tubular neck of the preform (claim 15) in combination with other structural limitations, and the depending claims 5,6,9,10, and 18.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Ota et al. (4,564,497)** also shows an inner core (15) having a plurality of heat absorbing members or fins (14,14) (Fig. 4) for heat transfer, but does not show gripping claws in combination with other structural limitations.

**Dubuis et al. (6,464,919)** shows an inner core (42,56) having a plurality of fins (52,52) (Fig. 2) for heat transfer, but does not show gripping claws. However, the prior art does not overcome the filing date of 371 of PCT/FR00/00354, filed on February 14, 2000, and also the original filing date in France on February 19, 1999.

**Neter (6,461,556)** shows an inner core (Fig. 9e) having a plurality of fins (412,412) (Fig. 9e) for heat transfer, but the prior art does not overcome the filing date of 371 of PCT/FR00/00354, filed on February 14, 2000, and also the original filing date in France on February 19, 1999.

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12. Applicant's amendment (*the additions of new limitations on claims 1, 11, and new claims 12-19*) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

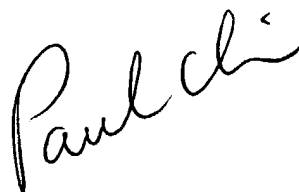
Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (703) 305-1524. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Paul Chin", written in a cursive style.

PAUL T. CHIN  
Examiner  
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